IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.386 OF 2005
IN
SUMMARY SUIT NO.1142 OF 2005

ABB Limited ....Plaintiff
V/s.
Hamon Thermopack Engineers Pvt.Ltd. ....Defendant

Mr.B.Saraf i/b Mr.Y.N. Adhia for the Plaintiff.
Mr.Ajay Panikar for the Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 30TH NOVEMBER, 2005.

P.C. :

1. The suit is filed to recover the price of goods sold and delivered by the Plaintiff to the Defendants on the terms and conditions contained in the four suit invoices.

2. As far as the first invoice dated 15.1.2002 bearing No.101468 is concerned, I am granting the Defendants unconditional leave to defend the suit.

3. As far as invoice Nos.102129, 102883 and 102892 are concerned, even according to the Defendants a balance of Rs.1,19,000/- is due and payable to the Plaintiff. Mr.Panikar admits that this would be the

balance due in respect of invoice Nos.2, 3 and 4.

4. Mr.Panikar, however, submitted that the Defendants are entitled to credit of Rs.50,000/- in respect of these three invoices. He submitted that an amount of Rs.50,000/- was paid under cover of a letter dated 24th November, 2004 (Exhibit "6" to the affidavit in reply).

5. It is pertinent to note that by the said letter, payment was not made towards any particular invoice. The Plaintiff adjusted as it was entitled to the amount of Rs.50,000/- towards an earlier purchase order No.4162/1186 dated 21.10.2002. In the circumstances, the Defendants are not entitled to credit for the said amount.

Thus, as far as these three invoices are concerned, there is no defence to the suit.

6. There is however no provision for interest in the purchase orders and the invoices. Interest was first demanded by the Plaintiffs advocates notice dated 6th December, 2004.

7. In the circumstances, the Summons for

Judgment is made absolute and the suit is decreed in the sum of Rs.1,19,000/- with interest thereon from the date of suit till payment and/or realisation and costs.

8. Unconditional leave to defend regarding the balance claim in respect of the suit transferred to the list of commercial causes. The Defendants to file their written statement within four weeks from today. Discovery and Inspection to be completed within six weeks thereafter.

9. Summons for judgment stands disposed of accordingly.